

Navy Case No. 84,512
Amendment Under Rule 116
Reply to Office action dated July 30, 2004

REMARKS

The foregoing proposed addition of new dependent claim 18 and the following remarks are submitted in response to the Final Office action in order to place the application in condition for allowance by overcoming the final rejections under 35 U.S.C. 102 and 35 U.S.C. 103 as stated on pages 2-3 of the Final Office action.

Claims 1, 6, 13 and 16 were finally rejected under 35 U.S.C. 102(b) as obvious over or anticipated by the disclosure in a newly cited U.S. Patent No. 5, 503,100 to Clifford C.C. Shaw. Claims 13 and 16 were also finally rejected as unpatentable over the same U.S. patent to Shaw under 35 U.S.C. 103(b). Careful comparison of the disclosure in the Shaw patent with the limitations set forth by recitation in the claims, indicates that such final rejections are in error as explained hereinafter and should therefore be withdrawn.

Claim 1 and claim 6 dependent therefrom limit the subject invention by recitation to: "A gondola housing section having--the bow and stern ends with external foils located midway between the bow and stern ends". None of the five different embodiments of the hydrofoil craft disclosed in the Shaw patent has its "external foils 10 located midway between the bow and stern ends--" as alleged on page 2, paragraph 3 in the Final Office action. Thus as clearly shown in FIGS. 1 and 2 and described in column 7, lines 25-28 of the Shaw patent, the foils 10 are located closer to the front end of the sub-hull 2 rather than midway between its opposite ends as called for in claims 1 and 6. Accordingly, the actual disclosure in the Shaw patent negates the final rejection of claims 1, 6, 13 and 16 under 35 U.S.C. 102 on this one account.

Claims 6 and 13 furthermore limit the subject invention by recitation to: "a rudder above--the propulsion system at the stern end". However the rudder 25 as disclosed in the Shaw patent,

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as referred to in this regard on page 2, paragraph 3 in the Final Office action, is not located above the propulsion system 8. Instead, the rudder 25 is clearly shown and labeled in FIGS. 1 and 25 of the Shaw patent as located at the aft end of the mainstrut 3 rearwardly spaced a substantial distance from the stern end of the sub-hull 2 and the propulsion system 8 mounted thereat. Accordingly the final rejection of claims 6, 13 and 16 under 35 U.S.C. 102 is negated on a second account by the actual disclosure in the Shaw patent.

Claim 13 and claim 16 dependent therefrom were also finally rejected under 35 U.S.C. 103(a) as set forth on page 3, paragraph 5 in the Final Office action. The latter referred to Final rejection under 35 U.S.C. 103(a) however ignores the claim limitation associated with the rudder as specified by the recitation: "a rudder mounted--above the propulsion system at the stern end (of the gondola housing)" in claim 13. The latter quoted claim recitation is contradicted by the arrangement associated with the referred to rudder 25 as disclosed in the Shaw patent. Accordingly, the final rejection under 35 U.S.C. 103 is also in error.

Claim 18 now submitted emphasizes the aforementioned claim distinctions over the disclosure in the Shaw patent involving the rudder locational relationships by specifying: "--a propeller--positioned in rearwardly spaced relation to said aft end--at which the rudder is mounted". Accordingly, claim 18 dependent from claim 13 is also clearly allowable over the Shaw patent.

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In view of the foregoing, entry of the proposed amendment and a formal allowance of the present application based on claims 1, 6, 13, 16 and 18 is in order and is hereby respectfully requested.

Respectfully requested,


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